

Missouri Revised Statutes
Chapter 281
Pesticides

August 28, 2004

Preemption of all ordinances and rules of political subdivisions.

281.005. Sections 281.210 to 281.310 and sections 281.005 to 281.115 shall preempt all ordinances, rules and regulations of political subdivisions relating to the use of subjects covered by said sections.

(L. 1992 H.B. 1764)

Short title.

281.010. Sections 281.010 to 281.115 shall be known as the "Missouri Pesticide Use Act".

(L. 1974 S.B. 431 § 1, A.L. 1977 H.B. 665)

Director of agriculture to administer.

281.015. Sections 281.005 to 281.115 shall be administered by the director of the department of agriculture of the state of Missouri, hereafter referred to as the "director".

(L. 1974 S.B. 431 § 2, A.L. 1992 H.B. 1764)

Definitions.

281.020. As used in sections 281.010 to 281.115, the following terms mean:

(1) "Animal", all vertebrate and invertebrate species, including but not limited to man and other mammals, birds, fish, and shellfish;

(2) "Applicator, operator or technician":

(a) "Certified commercial applicator", any individual, whether or not he is a private applicator with respect to some uses, who is certified by the director as authorized to use, supervise the use of, or determine the need for the use of, any pesticide, whether classified for restricted use or for general use, while he is engaged in the business of using pesticides on the lands of another as a direct service to the public in exchange for a fee or compensation;

(b) "Certified noncommercial applicator", any individual, whether or not he is a private applicator with respect to some uses, who is certified by the director as authorized to use, or to supervise the use of, any pesticide which is classified for restricted use only on lands owned or rented by him or his employer;

(c) "Certified private applicator", any individual who is certified by the director as authorized to use, or to supervise the use of, any pesticide which is classified for restricted use for purposes of producing any agricultural commodity on property owned or rented by him or his employer or on the property of another person, if used without compensation other than trading of personal services between producers of agricultural commodities, on the property of another person;

(d) "Certified public operator", any individual who is certified by the director as authorized to use, or to supervise the use of, any pesticide classified for restricted use in the performance of his duties as an official or employee of any agency of the state of Missouri or any political subdivision thereof, or any other governmental agency;

(e) "Private applicator", any person not holding a certified private applicator's license who shall be required to obtain a permit for the use of any restricted use pesticide for the purposes of

producing any agricultural commodity on property owned or rented by him or his employer or on the property of another person, if used without compensation other than trading of personal services between producers of agricultural commodities, such permit shall authorize the one-time emergency purchase of a restricted use pesticide for the purpose of a one-time emergency use of that pesticide;

(f) "Pesticide technician", any individual working under the direct supervision of a commercial applicator certified in categories as specified by regulation, and who having met the competency requirements of this chapter, is authorized by the director to determine the need for the use of any pesticide as well as to the use of any pesticide;

(g) "Pesticide technician trainee", any individual working in the physical presence and under the direct supervision of a certified commercial applicator to gain the required on-the-job training in preparation for obtaining a pesticide technician's license;

(3) "Beneficial insects", those insects which, during their life cycle, are effective pollinators of plants, are parasites or predators of pests, or are otherwise beneficial;

(4) "Defoliant", any substance or mixture of substances intended for causing the leaves or foliage to drop from a plant, with or without causing abscission;

(5) "Desiccant", any substance or mixture of substances intended for artificially accelerating the drying of plant tissue;

(6) "Determining the need for the use of any pesticide", the act of inspecting land for the presence of pests for the purpose of contracting for their control or prevention through the use of pesticides in categories as specified by regulation;

(7) "Device", any instrument or contrivance, other than a firearm, which is intended for trapping, destroying, repelling, or mitigating any pest or any other form of plant or animal life, other than man and other than bacteria, viruses, or other microorganisms on or in living man or other living animals, but not including equipment used for the application of pesticides when sold separately therefrom;

(8) "Environment" includes water, air, land, and all plants and man and other animals living therein, and the interrelationships which exist among these;

(9) "Equipment" means any type of ground, water or aerial equipment or contrivance using motorized, mechanical or pressurized power and used to apply any pesticide on land and anything that may be growing, habitating or stored on or in such land, but shall not include any pressurized hand-sized household apparatus used to apply any pesticide, or any equipment or contrivance of which the person who is applying the pesticide is the source of power or energy in making such pesticide application;

(10) "Fungus", any nonchlorophyll-bearing thallophyte, that is, any nonchlorophyll-bearing plant of a lower order than mosses and liverworts, as, for example, rust, smut, mildew, mold, yeast, and bacteria, except those on or in living man or other living animals, and except those on or in processed food, beverages, or pharmaceuticals;

(11) "Individual", any responsible, natural human being;

(12) "Insect", any of the numerous small invertebrate animals generally having the body more or less obviously segmented, for the most part belonging to the class Insecta, comprising six-legged, usually winged forms, as, for example, beetles, bugs, bees, flies, and to other allied classes of arthropods whose members are wingless and usually have more than six legs, as, for example, spiders, mites, ticks, centipedes, and wood lice;

(13) "Land", all land and water areas, including airspace, and all plants, animals, structures, buildings, contrivances and machinery, appurtenant thereto or situated thereon, fixed or mobile, including any used for transportation;

(14) "Misuse of a pesticide", a use of any registered pesticide in a manner inconsistent with its labeling; provided, that the use of a lesser concentration than provided on the label shall not be considered the misuse of a pesticide when used strictly for agricultural purposes, and when requested in writing by the person on whose behalf a pesticide is used;

(15) "Nematode", invertebrate animals of the phylum Nemathelminthes and class Nematoda, that is, unsegmented round worms with elongated, fusiform, or sac-like bodies covered with cuticle, and inhabiting soil, water, plants, or plant parts; may also be called nemas or eelworms;

(16) "Person", any individual, partnership, association, fiduciary, corporation, or any organized group of persons whether incorporated or not;

(17) "Pest":

(a) Any insect, snail, slug, rodent, nematode, fungus, weed; or

(b) Any other form of terrestrial or aquatic plant or animal life or virus, bacterium, or other microorganism, except viruses, bacteria, or other microorganisms on or in living man or other living animals, which is normally considered to be a pest;

(18) "Pesticide":

(a) Any substance or mixture of substances intended for preventing, destroying, repelling, or mitigating any pest; or

(b) Any substance or mixture of substances intended for use as a plant regulator, defoliant, or desiccant;

(19) "Pesticide dealer", any individual who is engaged in the business of distributing, selling, offering for sale, or holding for sale at retail, or direct wholesale to the end user, any pesticide classified for restricted use;

(20) "Plant regulator", any substance or mixture of substances, intended, through physiological action, for accelerating or retarding the rate of growth or rate of maturation, or for otherwise altering the behavior of plants or the produce thereof, but shall not include substances to the extent that they are intended as plant nutrients, trace elements, nutritional chemicals, plant inoculants, or soil amendments. The term "plant regulator" does not include any of those nutrient mixtures or soil amendments which are commonly known as vitamin-hormone horticultural products, intended for improvement, maintenance, survival, health and propagation of plants, and which are not for pest destruction and are nontoxic, nonpoisonous in the undiluted package concentration;

(21) "Private applicator permit", a written certificate, issued by the director or his authorized agent, authorizing the purchase, possession or use of certain restricted use pesticides by a private applicator. Such permit shall authorize the one-time emergency purchase of a restricted use pesticide for the purpose of a one-time emergency use of such pesticide;

(22) "Restricted use pesticide", any pesticide when applied in accordance with its directions for use, warnings and cautions and for the uses for which it is registered, or for one or more of such uses, or in accordance with a widespread and commonly recognized practice, the director determines may cause, without additional regulatory restrictions, unreasonable adverse effects on the environment, including injury to the applicator;

(23) "Sale", selling or offering for sale any pesticide;

(24) "Snails" or "slugs" includes all harmful mollusks;

(25) "Unreasonable adverse effects on the environment", any unreasonable risk to man or the environment, taking into account the economic, social, and environmental costs and benefits of the use of any pesticide;

(26) "Under the direct supervision of a certified applicator", when a pesticide is used by a competent person acting under the instructions and control of a certified applicator who is available if and when needed, even though such certified applicator is not physically present at the time and place the pesticide is used;

(27) "Use", mixing, applying, storing or disposing of a pesticide;

(28) "Weed", any plant which grows where not wanted; and

(29) "Wildlife", all living things that are neither human, domesticated, or pests, including, but not limited to, mammals, protected birds, and aquatic life.

(L. 1974 S.B. 431 § 3, A.L. 1977 H.B. 665, A.L. 1985 H.B. 370, A.L. 1988 H.B. 1384)
Effective 1-1-90

Director may enter into cooperative agreements with political subdivisions.

281.023. The director may enter into cooperative agreements with political subdivisions of this state regarding pesticide programs under sections 281.005 to 281.115 for the purpose of securing uniformity throughout the state. Nothing in sections 281.005 to 281.115 shall be construed to require the director to enter into any such agreement.

(L. 1992 H.B. 1764)

Director may issue regulations--notice, how given--list of restricted use pesticides, adoption of--public hearings, when--rulemaking procedure.

281.025. 1. The director shall administer and enforce the provisions of sections 281.010 to 281.115 and shall have authority to issue regulations after a public hearing following due notice of not less than thirty days to all interested persons, in conformance with the provisions of chapter 536, RSMo, to carry out the provisions of sections 281.010 to 281.115. Where the director finds that such regulations are needed to carry out the purpose and intent of sections 281.010 to 281.115, such regulations may relate to, but need not be limited to, prescribing the time, place, manner, methods, materials, and amounts and concentrations, in connection with the use of the pesticide, and may restrict or prohibit use of pesticides in designated areas during specified periods of time and shall encompass all reasonable factors which the director deems necessary to prevent damage or injury. In issuing such regulations, the director may give consideration to pertinent research findings and recommendations of other agencies of this state, the federal government, or other reliable sources. The director may by regulation require that notice of a proposed application of a pesticide be given to landowners adjoining the property to be treated or in the immediate vicinity thereof, if he finds that such notice is necessary to carry out the purpose of sections 281.010 to 281.115. The director may, by regulation, provide for the one-time emergency purchase and one-time emergency use of a restricted use pesticide by a private applicator.

2. The pesticides on the list of restricted use pesticides, as determined by the federal agency having jurisdiction over the classification of pesticides, shall be so restricted in the state of Missouri. The director shall publish, at least annually, a list of pesticides which have restricted uses. Such publication shall be made available to the public upon request. If the director

determines that a pesticide, when used in accordance with its directions for use, warnings and cautions, and for uses for which it is registered, may cause, without additional regulatory restrictions, unreasonable adverse effects on the environment, including injury to the applicator or other persons, the pesticide shall be used only by or under the direct supervision of a certified applicator, or a private applicator with a permit. Such pesticides may be subject to other restrictions as determined by the director, to include the time and conditions of possession and use.

3. No regulation, or any amendment or repeal thereof, provided for in sections 281.010 to 281.115 shall be adopted, except after public hearing giving an opportunity to the public to be heard, to be held after no less than thirty days' prior notice of the date, time, and place of hearing, to be given by regular mail to any person who has registered with the director for purposes of notice of such public hearings, in accordance with procedures prescribed by the director.

4. At any hearing, opportunity to be heard shall be afforded to any interested person upon written request received not later than twenty-four hours prior to the hearing, and may also be afforded to other persons. In addition, any interested person, whether or not heard, may submit within seven days subsequent to the hearing a written statement of views. The director may solicit the views in writing of persons who may be affected by, or interested in any proposed regulation. Any person heard or represented at the hearing, or making written request for notice, shall be given written notice of the action of the director with respect to the subject thereof.

5. No rule or portion of a rule promulgated under the authority of this chapter shall become effective unless it has been promulgated pursuant to the provisions of section 536.024, RSMo.

(L. 1974 S.B. 431 § 4, A.L. 1977 H.B. 665, A.L. 1988 H.B. 1384, A.L. 1993 S.B. 52, A.L. 1995 S.B. 3)

Classification of licenses, how made--rulemaking powers--fees.

281.030. 1. The director may, by regulation, classify certified applicator, operator or technician licenses to be issued under sections 281.010 to 281.115. Such classifications may include but not be limited to commercial applicators, noncommercial applicators, private applicators, public operators or pesticide technicians. Separate classifications may be specified as to ground, aerial, or manual methods used by any licensee to apply pesticides or to the use of pesticides for the control of pests.

2. The director may, by regulation, establish certification categories to be provided under each license classification. Each certification category shall be subject to separate testing procedures and requirements; provided, that no individual shall be required to pay an additional fee if he is certified in one or all of the certification categories provided under the license for which he has applied. The director may, by regulation, establish certification categories limited to the use of certain pesticides and issue a license therefor. Each certification category shall be subject to separate testing procedures covering only those pesticides for which the applicant seeks to be licensed.

3. The director may by regulation establish fees for identification documents.

(L. 1974 S.B. 431 § 5, A.L. 1977 H.B. 665, A.L. 1981 S.B. 200, A.L. 1988 H.B. 1384, A.L. 1995 S.B. 3)

Certified commercial applicator's license required when, annual fee--application for license, how made--examinations--records to be kept--incapacity of sole certified applicator, effect of.

281.035. 1. No individual shall engage in the business of determining the need for the use of, supervising the use of, or using any pesticide, in categories as specified by regulation, on the lands of another at any time without a certified commercial applicator's license issued by the director. A certified commercial applicator shall not determine the need for the use of, supervise the use of or use any pesticide for any particular purpose unless he has demonstrated his competence to use pesticides for that purpose by being certified by the director in the proper certification category. The director shall require an annual fee of fifty dollars for each certified commercial applicator's license issued. No certified commercial applicator shall knowingly authorize, direct, or instruct any individual to engage in determining the need for the use of or using any pesticide on the land of another at any time unless such individual is a pesticide technician or pesticide technician trainee in such categories as specified by regulation or is working under the direct supervision of a certified commercial applicator so authorizing, directing or instructing, in which case the certified commercial applicator shall be liable for any use of a pesticide by an individual operating under his direct supervision. The certified commercial applicator or the employer shall assure that the director is informed in writing within ten working days of the employment of any person as a pesticide technician or pesticide technician trainee.

2. Application for a certified commercial applicator's license shall be made in writing to the director on a designated form obtained from the director's office. Each application shall include such information as prescribed by the director by regulation.

3. The director shall not issue a certified commercial applicator's license until the applicant is certified by passing an examination provided by the director to demonstrate to the director his competence and knowledge of the proper use of pesticides under the classifications he had applied for, and his knowledge of the standards prescribed by regulations for the certification of commercial applicators.

4. The director may renew any certified commercial applicator's license under the classification for which such applicant is licensed, subject to reexamination for additional knowledge that may be required to use pesticides safely and properly either manually or with equipment the applicant has been licensed to operate.

5. If the director finds the applicant qualified to use pesticides in the classification for which application has been made, and if the applicant files evidence that the requirement for bonds or insurance has been met as required under section 281.065, the director shall issue a certified commercial applicator's license limited to the classifications for which he is qualified, which shall expire one year from date of issuance unless it has been revoked or suspended prior thereto by the director for cause; provided, such financial responsibility required under section 281.065 does not expire at an earlier date, in which case said license shall expire upon the expiration date of the financial responsibility. The director may limit the license of the applicant to the use of certain restricted use pesticides, or to certain areas, or to certain types of equipment if the applicant is only so qualified. If a license is not issued as applied for, the director shall inform the applicant in writing of the reasons therefor.

6. The director shall require each certified commercial applicator or his employer to maintain records with respect to applications of any pesticide. Such relevant information as the director may deem necessary may be specified by regulation. Such records shall be kept for a period of three years from the date of the application of the pesticide to which such records refer, and the director shall, upon request in writing, be furnished with a copy of such records by any certified commercial applicator or his employer.

7. A person or individual engaged in the business of using pesticides on the lands of another, who is deprived of his sole certified commercial applicator by reason of death, illness, incapacity or any absence which the director determines is unavoidable, is authorized to continue business operations without the services of a certified commercial applicator for a period of time deemed appropriate by the director, but not to exceed sixty days; except that, no restricted use pesticide

shall be used, or caused to be used, by such person or individual. Any such person or individual shall immediately notify the director as to the absence of his sole certified commercial applicator.

8. Every certified commercial applicator shall display his license in a prominent place at the site, location or office from which he will operate as a certified commercial applicator; that place, location or office being at the address printed on the license.

9. Every certified commercial applicator who changes the address from which he will operate as a certified commercial applicator shall immediately notify the director. The director shall immediately issue a revised license upon which shall be printed the changed address. The director shall not collect a fee for the issuance of a revised license. The expiration date of the revised license shall be the same as the expiration date for the original license.

(L. 1974 S.B. 431 § 6, A.L. 1977 H.B. 665, A.L. 1988 H.B. 1384)
Effective 1-1-90

Certified noncommercial applicator's license, when required --application for certified noncommercial applicator's license, examination, fee--scope of license--records to be kept.

281.037. 1. Any individual who is not certified pursuant to section 281.035, 281.040 or 281.045, or has not been issued a private applicator permit pursuant to subsection 5 of section 281.040 shall not use, or supervise the use of, any restricted use pesticide without a certified noncommercial applicator license. A certified noncommercial applicator shall not use, or supervise the use of, any restricted use pesticide for any purpose unless he has demonstrated his competence to use pesticides for that purpose by being certified by the director in the proper certification category.

2. Application for a certified noncommercial applicator license shall be made in writing to the director on a designated form obtained from the director's office. Each application shall include such information as prescribed by the director by regulation.

3. The director shall not issue a certified noncommercial applicator license until the applicant is certified by passing an examination provided by the director to demonstrate to the director his competence and knowledge of the proper use of pesticides under the classifications for which he has applied, and his knowledge of the standards prescribed by regulations for the certification of noncommercial applicators.

4. If the director finds the applicant qualified to use restricted use pesticides in the classification for which he has applied, the director shall issue a certified noncommercial applicator license limited to the applicator categories in which he is certified. The license shall expire one year from the date of issuance unless it has been revoked or suspended prior thereto by the director for cause. The director may limit the license of the applicant to the use of certain restricted use pesticides, or to certain areas, or to certain types of equipment if the applicant is only so qualified. If a license is not issued as applied for, the director shall inform the applicant in writing of the reasons therefor.

5. The director may renew any certified noncommercial applicator license under the classification for which the license is issued subject to reexamination for additional knowledge which may be required to apply pesticides safely and properly.

6. The director shall collect a fee of twenty-five dollars for each certified noncommercial applicator license issued.

7. Any certified noncommercial applicator may use, or supervise the use of, restricted use pesticides only to or on lands or structures owned, leased or rented by himself or his employer.

8. The director shall require the certified noncommercial applicator or his employer to maintain records with respect to applications of restricted use pesticides. Any relevant information which the director may deem necessary may be required by regulation. Such records shall be kept for a period of three years from the date of the application of the pesticide to which such records refer, and the director shall, upon request in writing, be furnished with a copy of such records by any certified noncommercial applicator or his employer.

9. Every certified noncommercial applicator shall display his license in a prominent place at the site, location or office from which he will operate as a certified noncommercial applicator; that place, location or office being at the address printed on the license.

10. Every certified noncommercial applicator who changes the address from which he will operate as a certified noncommercial applicator shall immediately notify the director. The director shall immediately issue a revised license upon which shall be printed the changed address. The director shall not collect a fee for the issuance of a revised license. The expiration date of the revised license shall be the same as the expiration date for the original license.

(L. 1977 H.B. 665, A.L. 1988 H.B. 1384)
Effective 1-1-90

Determination of need for use of pesticide, who may make--pesticide technician's license, application, requirements, fee.

281.038. 1. After July 1, 1990, no individual working under the direct supervision of a certified commercial applicator shall determine the need for the use of any pesticide nor use any pesticide in categories as specified by regulation, unless and until the individual has met the requirements of this chapter.

2. Application for a pesticide technician's license shall be made in writing to the director on a designated form obtained from the director's office. Each application shall include such information as prescribed by the director by regulation and shall be received by the director within forty-five days of employment of the pesticide technician or pesticide technician trainee.

3. The director shall not issue a pesticide technician's license until the individual has demonstrated his competence by completion of an approved training program to the satisfaction of the director.

4. The director may renew any pesticide technician's license under the classification for which that applicant is licensed subject to completion of an additional approved training program to the satisfaction of the director as prescribed by regulation.

5. The director shall collect a fee of twenty-five dollars for each pesticide technician license issued.

6. If the director finds the applicant qualified to use pesticides in the classification for which application has been made, the director shall issue a pesticide technician's license limited to the classifications for which he is qualified, which shall expire one year from date of issuance unless it has been revoked or suspended prior thereto by the director for cause. The director may limit the license of the applicant to the use of certain pesticides, or to certain areas, or to certain types of equipment if the applicant is only so qualified. If a license is not issued as applied for, the director shall inform the applicant in writing of the reasons for such denial of license.

(L. 1988 H.B. 1384)
Effective 1-1-90

Private applicator's license, qualifications for, duration, renewal--emergency use of restricted pesticides, when authorized.

281.040. 1. No private applicator shall use any restricted use pesticide unless he first complies with the requirements determined pursuant to subsection 2 or 5 of this section, as necessary to prevent unreasonable adverse effects on the environment, including injury to the applicator or other persons, for that specific pesticide use.

2. The private applicator shall qualify for a certified private applicator's license by attending a course of instruction provided by the director on the use, handling, storage and application of restricted use pesticides. The content of the instruction shall be determined and revised as necessary by the director. Upon completion of the course, the director shall issue a certified private applicator's license to the applicant. The director shall not collect a fee for the issuance of such license.

3. A certified private applicator's license shall expire five years from date of issuance and may then be renewed without charge or additional fee. Any certified private applicator holding a valid license may renew that license for the next five years without additional training unless the director determines that additional knowledge related to the use of agricultural pesticides makes additional training necessary.

4. If the director does not qualify the private applicator under this section he shall inform the applicant in writing of the reasons therefor.

5. The private applicator may apply to the director, or his designated agent, for a private applicator permit for the one-time emergency purchase and use of restricted use pesticides. When the private applicator has demonstrated his competence in the use of the pesticides to be purchased and used on a one-time emergency basis, he shall be issued a permit for the one-time emergency purchase and use of restricted use pesticides. The director or his designated agent shall not collect a fee for the issuance of such permit.

(L. 1974 S.B. 431 § 7, A.L. 1977 H.B. 665, A.L. 1988 H.B. 1384)
Effective 1-1-90

Certified operator license, when required--application, requirements, examination--maintenance of records--liability of governmental agencies.

281.045. 1. All agencies of the state of Missouri and the political subdivisions thereof, and any other governmental agency shall be subject to the provisions of sections 281.010 to 281.115 and rules adopted thereunder concerning the use of restricted use pesticides.

2. Public operators for agencies listed in subsection 1 of this section shall not use, or supervise the use of, any restricted use pesticides on any land or structure without a certified public operator license issued by the director. The certified public operator shall not use or supervise the use of any restricted use pesticide for any purpose unless he has demonstrated his competence to use pesticides for that purpose by being certified by the director in the proper certification category. Any employee of any agency listed in subsection 1 of this section who is not licensed as a certified public operator may use restricted use pesticides only under the direct supervision of a certified public operator.

3. Application for a certified public operator license shall be made in writing to the director on a designated form obtained from the director's office. Each application shall include all information prescribed by the director by regulation.

4. The director shall not issue a certified public operator license until the applicant is certified by passing an examination provided by the director to demonstrate to the director his competence and knowledge of the proper use of pesticides under the classifications for which he has applied, and his knowledge of the standards prescribed by regulations for the certification of public operators.

5. If the director finds the applicant qualified to use pesticides in the classification for which he has applied, the director shall issue a license, without a fee, to the certified public operator who has so qualified. The certified public operator license shall be valid only when the operator is acting as an operator using, or supervising the use of, restricted use pesticides in the course of his employment. A certified public operator license shall expire three years from the date of issuance unless it has been revoked or suspended prior thereto by the director for cause. The director may limit the license of the applicant to the use of certain restricted use pesticides, or to certain areas, or to certain types of equipment if the applicant is only so qualified. If a license is not issued as applied for, the director shall inform the applicant in writing of the reasons therefor.

6. The director may renew any certified public operator license under the classification for which that applicant is licensed, subject to reexamination for additional knowledge which may be required to use pesticides safely and properly either manually or with equipment the applicant has been licensed to operate.

7. The director shall require the certified public operator, or his employer, to maintain records with respect to applications of restricted use pesticides. Any relevant information which the director may deem necessary may be required by regulation. Such records shall be kept for a period of three years from the date of the application of the pesticide to which such records refer, and the director shall, upon request in writing, be furnished with a copy of such records by any certified public operator or his employer.

8. Agencies listed in subsection 1 of this section shall be subject to a legal action by any person damaged by any use of any pesticide, which may be brought in the county where the damage or any part thereof occurred.

9. Every certified public operator shall display his license in a prominent place at the site, location or office from which he will operate as a certified public operator, that place, location or office being at the address printed on the license.

10. Every certified public operator who changes the address from which he will operate as a certified public operator shall immediately notify the director. The director shall immediately issue a revised license upon which shall be printed the changed address. The director shall not collect a fee for the issuance of a revised license. The expiration date of the revised license shall be the same as the expiration date for the original license.

(L. 1974 S.B. 431 § 8, A.L. 1977 H.B. 665, A.L. 1988 H.B. 1384)
Effective 1-1-90

Pesticide dealer's license required, fee, qualifications--grounds for suspension or revocation--restricted use of pesticides, sale or transfer, to whom, exception--records to be kept--change of address, notice of.

281.050. 1. No individual shall act in the capacity of a pesticide dealer or shall engage in the business of, advertise as, or assume to act as a pesticide dealer unless he has obtained a license from the director which shall expire one year from date of issuance. An individual shall be required to obtain a license for each location or outlet from which such pesticides are distributed, sold, held for sale, or offered for sale at retail or wholesale direct to the end user. Pesticide dealers may be designated by the director as agents of the state for the purpose of issuing permits for restricted use pesticides to private applicators.

2. Application for a pesticide dealer's license shall be made on a designated form obtained from the director's office. The director shall collect a fee of twenty-five dollars for the issuance of each license. The provisions of this section shall not apply to a pesticide applicator who sells pesticides only as an integral part of his pesticide application service when such pesticides are dispensed only through apparatuses used for such pesticide applications. The provisions of this section shall not apply to any federal, state, or county agency which provides pesticides for its own programs.

3. Each applicant shall satisfy the director as to his knowledge of the laws and regulations governing the use and sale of pesticides and his responsibility in carrying on the business of a pesticide dealer. Each licensed pesticide dealer shall be responsible for insuring that all of his employees and agents who sell or recommend restricted use pesticides have adequate knowledge of the laws and regulations governing the use and sale of such restricted use pesticides.

4. Each pesticide dealer shall be responsible for the acts of each person employed by him in the solicitation and sale of pesticides and all claims and recommendations for use of pesticides. The dealer's license shall be subject to denial, suspension, or revocation after a hearing for any violation of sections 281.010 to 281.115 whether committed by the dealer, or by the dealer's officer, agent or employee.

5. No pesticide dealer shall sell, give away or otherwise make available any restricted use pesticides to anyone but certified applicators or operators, or to private applicators who have met the requirements of subsection 5 of section 281.040, or to other pesticide dealers, except that pesticide dealers may allow the designated representative of such certified applicators, operators or private applicators to take possession of restricted use pesticides when those restricted use pesticides are purchased by and for use by or under the direct supervision of such certified applicator, operator or private applicator.

6. The director shall require the pesticide dealer, or his employer, to maintain books and records with respect to sales of restricted use pesticides. Such relevant information as the director may deem necessary may be specified by regulation. Such records shall be kept for a period of three years from the date of sale of the restricted use pesticide to which such records refer, and the director shall upon request in writing be furnished with a copy of such records by any licensed pesticide dealer or his employer.

7. Every licensed pesticide dealer who changes his address or place of business shall immediately notify the director.

(L. 1974 S.B. 431 § 9, A.L. 1977 H.B. 665, A.L. 1988 H.B. 1384)
Effective 1-1-90

Late renewal of license, penalty, reexamination, when--director to provide guideline book, fee for book.

281.055. 1. If the application for renewal of any license, certification or permit provided for in this chapter is not filed prior to expiration date in any year, a penalty of twenty-five percent shall be assessed and added to the original fee and shall be paid by the applicant before the license, certification or permit shall be renewed; provided, that such penalty shall not apply if the applicant furnishes an affidavit certifying that he has not engaged in the business subsequent to the expiration of his license, certification or permit. Any person holding a current valid license, certification or permit may renew the license, certification or permit for the next year without taking another examination unless the director determines that additional knowledge related to classifications for which the applicant has applied makes a new examination necessary. However, if the license is not renewed within sixty days following the date of expiration then the

licensee shall be required to satisfy all the requirements of licensure as if such person was never licensed.

2. The director may promulgate reasonable regulations requiring additional training and instruction on the part of any applicant for a license issued under sections 281.010 to 281.115.

3. The director shall have prepared for prospective licensee's use, a book of guidelines of factual necessary information related to the requirements of sections 281.010 to 281.115. A reasonable fee may be collected for said publication.

(L. 1974 S.B. 431 § 10, A.L. 1977 H.B. 665, A.L. 1988 H.B. 1384)
Effective 1-1-90

Revocation, suspension or modification of license, when--civil penalty, when, amount, enforcement of.

281.060. 1. The director, after inquiry, and after opportunity for a hearing, may deny, suspend, revoke, or modify the provisions of any license, permit, or certification issued under sections 281.010 to 281.115, if he finds that the applicant or the holder of a license, permit, or certification has violated any provision of sections 281.010 to 281.115, or any regulation issued thereunder, or has been convicted or subject to a final order imposing a civil or criminal penalty pursuant to the Federal Insecticide, Fungicide and Rodenticide Act (FIFRA), as amended, or has been convicted, or is the subject of prosecution, in another state or protectorate of the United States, or has had a pesticide applicator license, certificate or permit denied, suspended, revoked or modified by another state or protectorate of the United States, or the person has been finally adjudicated and found guilty, or entered a plea of guilty or nolo contendere, in a criminal prosecution under the laws of any state or of the United States, for any offense reasonably related to the qualifications, functions or duties of any profession licensed or regulated under this chapter, for any offense an essential element of which is fraud, dishonesty or an act of violence, or for any offense involving moral turpitude, whether or not sentence is imposed.

2. If the director determines, after inquiry and opportunity for a hearing, that any individual is in violation of any provision of sections 281.010 to 281.115, or any regulations issued thereunder, the director shall have the authority to assess a civil penalty of not more than one thousand dollars for each violation, and in addition, may order that restitution be made to any person.

3. In the event that a person penalized or ordered to pay restitution under this section fails to pay the penalty or restitution, the director may apply to the circuit court of Cole County for, and the court is authorized to enter, an order enforcing the assessed penalty or restitution.

(L. 1974 S.B. 431 § 11, A.L. 1977 H.B. 665, A.L. 1988 H.B. 1384)
Effective 1-1-90

Inspection with consent of owner of premises--search warrant to issue, when--director may bring action to enjoin, when.

281.061. 1. For the purpose of enforcing the provisions of sections 281.010 to 281.115, the director may, with permission from the owner or person in charge, enter upon a premises at reasonable times in order to inspect, investigate, observe, sample, and audit; provided that such right of entry, in the case of manufacturing and formulation establishments, be limited to those areas where pesticides are packaged, labeled and released for shipment.

2. If the director is denied access to any land where such access was sought for the purposes set forth in this section, he may apply to any court of competent jurisdiction for a search warrant

authorizing access to that land for those purposes. The court may issue a search warrant for the purposes requested upon probable cause being shown.

3. The director may report any violation of the provisions of sections 281.010 to 281.115 to the prosecuting attorney of the county where the violation occurs. The prosecuting attorney may institute appropriate proceedings in a court of competent jurisdiction. If any prosecuting attorney refuses or fails to act on request of the director, the attorney general shall so act.

4. The director may bring an action to enjoin the violation or threatened violation of any provision of sections 281.010 to 281.115, or any rule promulgated thereunder, in the circuit court of the county in which the violation occurs or is about to occur. No court shall allow for recovery of damages for administrative action taken if the director acts in good faith. No bond shall be required of the director.

(L. 1977 H.B. 665, A.L. 1988 H.B. 1384)
Effective 1-1-90

Director may subpoena witnesses and documents, when.

281.063. The director may subpoena witnesses and compel the production of books, documents and records anywhere in the state in any hearing affecting the authority or privilege granted by a license, certificate or permit issued under the provisions of sections 281.010 to 281.115.

(L. 1977 H.B. 665)

Bond or insurance required--deductible clause accepted, when--new surety, when--liability, effect of chapter on.

281.065. 1. The director shall not issue a certified commercial applicator's license until the applicant or the employer of the applicant has furnished evidence of financial responsibility with the director consisting either of a surety bond or a liability insurance policy or certification thereof, protecting persons who may suffer legal damages as a result of the operations of the applicant; except that, such surety bond or liability insurance policy need not apply to damages or injury to crops, plants or land being worked upon by the applicant.

2. The amount of the surety bond or liability insurance required by this section shall be not less than twenty-five thousand dollars for property damage and bodily injury insurance, each separately and for each occurrence. Such surety bond or liability insurance shall be maintained at not less than that sum at all times during the licensed period. The director shall be notified within twenty days prior to any reduction at the request of the bond- or policyholder or any cancellation of such surety bond or liability insurance by the surety or insurer, as long as the total and aggregate of the surety and insurer for all claims shall be limited to the face of the bond or liability insurance policy. If the surety bond or liability insurance policy which provides the financial responsibility for the applicant is provided by the employer of the applicant, the employer of the applicant shall immediately notify the director upon the termination of the employment of the applicant or when a condition exists under which the applicant is no longer provided bond or insurance coverage by the employer. The applicant shall then immediately execute a surety bond or an insurance policy to cover the financial responsibility requirements of this section and shall furnish the director with evidence of financial responsibility as required by this section. The director may accept a liability insurance policy or surety bond in the proper sum which has a deductible clause in an amount not exceeding one thousand dollars; except that, if the bond- or policyholder has not satisfied the requirement of the deductible amount in any prior legal claim, such deductible clause shall not be accepted by the director unless the bond- or policyholder furnishes the director with a surety bond or liability insurance which shall satisfy the amount of the deductible as to all claims that may arise in his application of pesticides.

3. If the surety furnished becomes unsatisfactory, the bond- or policyholder shall, upon notice, immediately execute a new bond or insurance and if he fails to do so, the director shall cancel his license, or deny the license of an applicant, and give him notice of cancellation or denial, and it shall be unlawful thereafter for the applicant to engage in the business of using pesticides until the bond or insurance is brought into compliance with the requirements of subsection 1 of this section. If the bond- or policyholder does not execute a new bond or insurance policy within sixty days of expiration of such bond or policy, the licensee shall be required to satisfy all the requirements for licensure as if never before licensed.

4. Nothing in sections 281.010 to 281.115 shall be construed to relieve any person from liability for any damage to the person or lands of another caused by the use of pesticides even though such use conforms to the rules and regulations of the director.

(L. 1974 S.B. 431 § 12, A.L. 1977 H.B. 665, A.L. 1988 H.B. 1384)
Effective 1-1-90

Damage claims to be filed with director, when due--duties of director--failure to file, effect of--investigation or hearing, powers of director.

281.070. 1. The director may investigate the use of any pesticide or claims of damages which result from the use of any pesticide.

2. Any person who claims to have been damaged as a result of a pesticide use and who requests an investigation of that damage by the director shall file with the director, on a form provided by the director, a written statement claiming that he has been damaged. Damage statements shall be filed within thirty days after the date the damage is alleged to have occurred, unless a growing crop is alleged to have been damaged. If a growing crop is alleged to have been damaged, the damage statement shall be filed at least two weeks prior to the time that twenty-five percent of that crop has been harvested. The director shall, upon receipt of the statement, notify the person alleged to have caused the damage and the owner or lessee of the land, or other person who may be charged with the responsibility of the damages claimed, and furnish copies of any statements which may be requested. The director shall inspect damages whenever possible and he shall make his inspection reports available to the person claiming damage and to the person who is alleged to have caused the damage. Where damage is alleged to have occurred, the claimant shall permit the director, the licensee and his representatives, such as the bondsman or insurer, to observe, within reasonable hours, the lands or nontarget organism alleged to have been damaged.

3. The filing of or the failure to file need not be alleged in any complaint which might be filed in a court of law, and the failure to file a damage claim shall not be considered any bar to the maintenance of any criminal or civil action. The failure to file such a report shall not be a violation of sections 281.010 to 281.115. However, if the person failing to file such report is the only one injured from such use or application of a pesticide by others, the director may, when in the public interest, refuse to hold a hearing for the denial, suspension or revocation of a license or permit issued under sections 281.010 to 281.115 until such report is filed.

4. The director may in the conduct of any investigation or hearing authorized or held by him:

- (1) Examine, or cause to be examined, under oath, any person;
- (2) Examine, or cause to be examined, books and records of the sale or use of any pesticide directly related to the investigation;
- (3) Hear such testimony and take such evidence as will assist him in the discharge of his duties under this chapter;
- (4) Administer or cause to be administered oath; and

(5) Issue subpoenas to require the attendance of witnesses and the production of books and records directly related to the investigation.

(L. 1974 S.B. 431 § 13, A.L. 1977 H.B. 665, A.L. 1988 H.B. 1384)
Effective 1-1-90

Reciprocal licensing authorized, when--agent to be designated by nonresidents.

281.075. 1. The director may issue a license or certification on a reciprocal basis with other states without examination to a nonresident who is licensed or certified in another state substantially in accordance with the provisions of sections 281.010 to 281.115; except that, financial responsibility must be filed pursuant to section 281.065. Fees collected shall be the same as for resident licenses or certification.

2. Any nonresident applying for any license under section 281.035, 281.037, 281.038 or 281.050 to operate in the state of Missouri shall designate in writing the secretary of state as the agent of such nonresident upon whom process may be served as provided by law; except that, any such nonresident who has designated a resident agent upon whom process may be served as provided by law shall not be required to designate the secretary of state as such agent. The secretary of state shall be allowed such fees therefor as provided by law for designating resident agents. The director shall be furnished with a copy of such designation of the secretary of state or of a resident agent, such copy to be certified by the secretary of state.

(L. 1974 S.B. 431 § 14, A.L. 1977 H.B. 665, A.L. 1978 S.B. 748, A.L. 1988 H.B. 1384)
Effective 1-1-90

Exemptions.

281.080. The provisions of sections 281.010 to 281.115 relating to licenses and requirements for their issuance shall not apply to:

- (1) Veterinarians using pesticides on animals during the normal course of veterinary practice, as long as he is not regularly engaged in the business of using pesticides for hire amounting to a principal or regular occupation or does not publicly hold himself out as a pesticide applicator;
- (2) Doctors of medicine or doctors of osteopathy using or prescribing pesticides in the practice of medicine;
- (3) Government and private research personnel using pesticides under laboratory type conditions.

(L. 1974 S.B. 431 § 15, A.L. 1977 H.B. 665, A.L. 1988 H.B. 1384)
Effective 1-1-90

Pesticide containers, regulation of, handling of.

281.085. No person shall discard, transport, or store any pesticide or pesticide containers in such a manner as to cause injury to humans, vegetation, crops, livestock, wildlife, beneficial insects or to pollute any waterway. The director may promulgate rules and regulations governing the discarding and storing of such pesticide or pesticide containers. In determining these rules and regulations the director shall take into consideration any regulations issued by the Federal Environmental Protection Agency.

(L. 1974 S.B. 431 § 16)

Stop orders, when--effect of.

281.090. When the director or his authorized agent has probable cause to believe a pesticide is being distributed or used in violation of any of the provisions of sections 281.010 to 281.115, or of any of the prescribed regulations under sections 281.010 to 281.115, he may issue and serve a written "stop sale, use or removal order" upon the owner or custodian of that pesticide. The pesticide shall not be sold, distributed, used or removed until the provisions of sections 281.010 to 281.115 have been complied with and the pesticide has been released in writing by the director or the violation has been otherwise disposed of as provided in sections 281.010 to 281.115 by a court of competent jurisdiction.

(L. 1974 S.B. 431 § 17, A.L. 1977 H.B. 665)

Appeals, how taken.

281.095. Any person aggrieved by any act of the director may appeal according to the provisions of chapter 536, RSMo.

(L. 1974 S.B. 431 § 18)

Instructional courses, how conducted.

281.100. The director may, in cooperation with a land grant college or university or other public educational institutions, or a professional association or person representing the licensee's category of certification, publish information and conduct short courses of instruction in the areas of knowledge required for licensing or certification under the provisions of sections 281.010 to 281.115.

(L. 1974 S.B. 431 § 19, A.L. 1977 H.B. 665)

Unlawful acts.

281.101. 1. It shall be unlawful for any individual to violate any provision of sections 281.010 to 281.115, or any regulation issued thereunder.

2. The following are determined to be unlawful acts:

- (1) It shall be unlawful to recommend for use, to use, or to supervise the use of any pesticide in a manner inconsistent with its labeling required by labeling requirements of FIFRA, Missouri pesticide use act or Missouri pesticide registration act;
- (2) It shall be unlawful for any individual to misuse any pesticide;
- (3) It shall be unlawful to make any false or misleading statements during the course of an investigation into the sale, distribution, use or misuse of any pesticide;
- (4) It shall be unlawful to make any false or misleading statement on any application, form or document submitted to the director concerning licensing pursuant to sections 281.010 to 281.115 or any regulations issued thereunder;
- (5) It shall be unlawful to make any false, misleading or fraudulent statement or claim, through any media, which misrepresents the effects of any pesticide, the methods to be utilized in the application of any pesticide, or the qualifications of the person determining the need for the use of any pesticide or using any pesticide;
- (6) It shall be unlawful to make any false or misleading statement specifying, or inferring that a person or his methods are recommended by any branch of government or that any pesticide work done will be inspected by any branch of government;
- (7) It shall be unlawful to aid or abet any licensed or unlicensed individual in evading the provisions of sections 281.010 to 281.115 or any regulation issued thereunder, or to conspire with any licensed or unlicensed individual in evading the provisions of sections 281.010 to 281.115 or any regulation issued thereunder.

Other acts which are not specified, but which violate sections 281.010 to 281.115 or regulations issued thereunder, shall nevertheless be unlawful.

(L. 1988 H.B. 1384)
Effective 1-1-90

Penalty for violations.

281.105. Any individual, whether a holder or nonholder of a valid license issued pursuant to this chapter, convicted of violating any of the provisions of sections 281.010 to 281.115, or any regulation issued thereunder, shall be guilty of a misdemeanor. Such misdemeanor may be punishable by imposition of a fine of not less than one hundred dollars and not more than five thousand dollars or by imprisonment in the county jail for not less than thirty days and not more than one year, or by both imposition of a fine and imprisonment.

(L. 1974 S.B. 431 § 20, A.L. 1977 H.B. 665, A.L. 1986 H.B. 1554 Revision, A.L. 1988 H.B. 1384)
Effective 1-1-90

Authorization to accept federal aid.

281.110. The director may cooperate, receive grants-in-aid, and enter into agreements with any agency of the federal government, of this state or its subdivisions, or with any agency of another state, in order:

- (1) To secure uniformity of regulations;
- (2) To cooperate in the enforcement of the federal pesticide control laws through the use of state or federal personnel and facilities and to implement cooperative enforcement programs;
- (3) To develop and administer state training programs for certification of applicators consistent with federal standards;
- (4) To contract with other agencies including federal agencies for the purpose of training certified applicators;
- (5) To contract for monitoring pesticides for the national plan;
- (6) To prepare and submit state plans to meet federal certification standards;
- (7) To regulate certified applicators; or
- (8) To contract with other agencies for the purpose of training pesticide dealers.

(L. 1974 S.B. 431 § 21)

Director's rules, ratification of.

281.115. All rules and regulations promulgated by the director of agriculture under the terms of sections 281.010 to 281.115 shall stand ratified unless rescinded by the general assembly within first sixty days of each annual session.

(L. 1974 S.B. 431 § 22)